IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7175 of 2005

Between:

K. Mallesh Yadav,
Boinpally Mandal, Karimnagar District.

..... PETITIONER

AND

1 The District Collector, (Panchayat Wing), Karimnagar,
Karimnagar District.
2 The District Panchayat Officer (DPO), karimnagar,
Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in nature of writ of Mandamus declaring the action of the respondents in issuing the impugned proceeding No. A2/566/2004-PTS dt. 23.2.2005 in permitting the contractor to lift the sand from Sabashpally Vagu which is situated under the drought effected Mandal is as illegal, void, by holding the action of the 1st respondent in issuing the impugned proceedings dt. 23.2.2005 at the behest of contractor contrary to G.O.Ms.No.690 and 691 dt. 4.9.2004 hich is highly illegal, unjust and opposed to all principles of equity justice and fair play.

Counsel for the Petitioner:MR.CH.JAGANNADHA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court, at the stage of admission, made the following :

ORDER:

This writ petition is filed questioning the proceedings dated 23.02.2005 issued by the first respondent-District Collector, Panchayat Wing, Karimnagar, whereunder permission was granted to the Superintending Engineer R.W.S Karimnagar to lift the sand from Sabashpally Vagu subject to certain conditions.

The petitioner claims to be the Sarpanch of Sabashpally Vagu Gram Panchayat. This writ petition is filed aggrieved by the action of the respondents in issuing the proceedings dated 23-02-2005 thereby permitting lifting of sand from Sabashpally Vagu. The petitioner states that Sabashpally Vagui is the only irrigation source for cultivating the lands situated in two villages namely Sabashpally Vagu and Kodurupak and it is also catering to the needs of drinking water to the residents of both the villages. It is alleged that the respondents failed to assess the drought conditions prevailing in the villages and surrounding areas and erroneously issued the impugned proceedings in contravention of the order of G.O.Ms.No.690 and G.O.Ms.No.691, dated 4-9-2004, thereby permitting lifting of sand to Kothapalli Project and Gangadhara Projecdt for the purpose of commissioning of water supply projects. It is claimed that in pursuance of the said proceedings, the work has already been entrusted to the contractor by name Subba Rao. It is stated that the Gram Panchayat passed a resolution dated 10-03-2005 resolving that the lifting of sand is detrimental to village and therefore the same shall be stopped. In spite of the same, the respondents failed to take any action. Hence, this writ petition.

Heard learned counsel for the petitioner and the learned Government Pleader appearing for the respondents and perused the material on record.

As a matter of fact, under the impugned order itself certain conditions were imposed subject to which the lifting of sand was permitted. However, the leaned Counsel for the petitioner contends that the contractor has been lifting the sand

without having regard to the conditions imposed under the impugned order and the same is resulting in depletion of ground water.

Having regard to the allegations made by the petitioner, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioner to make an appropriate application before the first respondent raising all the objections against the lifting of sand under proceedings dated 23.02.2005. If any such application is made, the first respondent shall look into the same and after making necessary enquiry pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of one week from the date of receipt of application from the petitioner. No costs.

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12.04.2005

Note : Furnish C.C. by 13.04.2005

(B/O)

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To

1 The District Collector, (Panchayat Wing), Karimnagar, Karimnagar District.
2 The District Panchayat Officer (DPO), karimnagar, Karimnagar District.

3 Two C.Cs to the G.P. for Panchayat raj and Rural Development, High Court Buildings, Hyderabad. (OUT).

4 2 CD copies.